

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT BOSTON,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 04-51 Erie
)	JUDGE SEAN McLAUGHLIN
JOHN ASHCROFT,)	
)	
Respondent.)	

ORDER

Petitioner Robert Boston filed this petition for writ of habeas corpus seeking to have all the time he spent in state custody from February 1, 1999, through April 1, 2003, credited against his federal sentence. Although the federal sentence was intended to run consecutively to his state court sentence, Boston was mistakenly designated to a federal prison on November 24, 1999, immediately after the imposition of his federal sentence, and spent some months in federal custody before being returned to state confinement. Boston argued that this error in assignment started his federal sentence running, and that it continued to run through his release from state custody on April 1, 2003. This Court disagreed and denied relief, finding that Boston was not entitled to “double credit” against both his state and federal sentences for the same time period. On appeal, the Court of Appeals agreed in large part with this analysis, but found that Boston was entitled to credit for time served on his federal sentence for the time he actually spent in federal custody, i.e., the time from his designation to a federal facility on November 24, 1999, until he was actually, physically returned to state custody (Doc. 27, page 8). The matter was remanded to this Court because the record does not reflect the date Boston was actually

returned to a state correctional institution, although this date should be readily available to the Bureau of Prisons. Hence, the following order is entered:

AND NOW, this ____ day of February, 2007,

IT IS HEREBY ORDERED that the Bureau of Prisons shall FORTHWITH credit Petitioner Boston's federal sentence with all time served between November 24, 1999 and the date on which he was returned to state custody. The Clerk is directed to mark this case CLOSED.

SEAN J. McLAUGHLIN
UNITED STATES DISTRICT JUDGE

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